

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ROCKLAND

-----X
VILLAGE OF POMONA,

Plaintiff,

-against-

LEON HARRIS and FRANCES ARSA ARTHA,

Defendants.
-----X

Index No. 032238/2019

**AFFIDAVIT OF
FRANCES ARSA ARTHA**

STATE OF NEW YORK)
) ss:
COUNTY OF ROCKLAND)

FRANCES ARSA ARTHA, affirms as follows:

1. I am one of the Defendants herein and I hereby submit this Affirmation in Opposition to the Plaintiff's Order Show Cause seeking information from me as the former Village Clerk of the Village of Pomona (the "Village").
2. First of all, I have answered all questions that were posed to me by my successor, Ms. Lisa Thorsen, while I was still employed by the Village.
3. Secondly, I believe the lawsuit filed by the Village is not in conformity with Public Officers Law, was unwarranted, is frivolous and without merit.
4. However, despite these facts, I am willing to provide the information AGAIN that I previously gave to the Village.

5. Curiously missing from the Plaintiff's lawsuit is the fact that I was unceremoniously terminated by Mayor Ian Banks six (6) days before my term was to expire. In fact, Mr. Banks also reversed funds that were properly paid to me and removed them from my personal bank account. The fact that the Village did not "transition" smoothly is because Mr. Banks terminated my employment prior to my term expiring. I had and would have continued to assist with the transition but as he had so coldly terminated me I was not able to do so nor do I have any desire to do so now.

6. Mr. Banks nor the Village's counsel, Janine Getler, Esq., have not given me the courtesy of a reply to my certified letter dated April 19, 2019 regarding my request for monies that are due to me from the Village. In fact, as set forth above, the Village paid me and Mr. Banks improperly (and I believe illegally) "reversed" the funds out of my bank account.

7. In my opinion, it is entirely unprofessional for the Village to sue me for information requested despite NEVER having asked for this information in any prior written request.

8. On May 2, 2019, after the lawsuit was filed, the Village's attorney, Janine Getler, Esq., submitted a list of questions for me to answer to my attorney. A copy of that May 2, 2019 e-mail is annexed herewith as Exhibit "A".

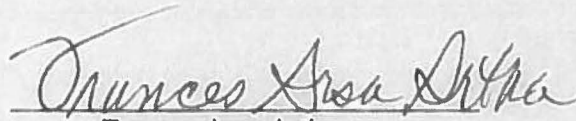
9. In this e-mail, Ms. Getler requested that I "go over to village hall to go through all these items" with my successor.

10. I have been nothing but professional during my tenure in working for the Village. However, after firing me and hearing of the threats, false accusations and slander of me and my fellow Village employees, I have no desire to do any "favors" for Mayor Banks or any members of the current administration. Mayor Banks put himself in this predicament by firing me.

11. As members of the current Village administration have made false allegations against me, the last thing I will do is step foot back in Village Hall.

12. In Ms. Getler's May 2, 2019 e-mail to my attorney she listed eight (8) questions for me to answer. As I am a professional, and upon the counsel of my attorney, I answer each of those questions in my submission which is annexed herewith as Exhibit "B".

Based on the foregoing, I respectfully request that Plaintiff's Order to Show Cause be denied in its entirety and I want nothing more to do with the Village of Pomona.


Frances Arsa Artha

Affirmed to before me this
7th day of May, 2019


Notary Public

Brian K. Condon
Notary Public, State of New York
Registration No. 02CO6001956
Qualified in Rockland County
Commission Expires 02/2/2022

Exhibit “A”

Brian K. Condon

From: Janine Getler <jgetler@ggpcclaw.com>
Sent: Friday, May 3, 2019 2:46 PM
To: Brian K. Condon
Cc: Melissa Stoll
Subject: Re: Pomona

Brian so sorry to bother you but i really want to avoid serving your client if at all possible. can i hear from you please that you will accept service. thanks

Janine A. Getler
201 310 2951
Sent from my iPhone

On May 2, 2019, at 3:39 PM, Janine Getler <jgetler@ggpcclaw.com> wrote:

Hi Brian: As you might have seen, Judge Eisenpress has entered the order. It requires that we serve your client by overnight mail. Let us know if you want us to just serve it on you and that you will accept service for your client. I am hoping that we can get this all resolved before the 8th and no appearances will be necessary.

I have received the following list of items needed from your client. Lisa Thorsen, the current clerk has asked that your client go over to village hall to go through all these items with her. She thinks that may be the most effective way to deal with this. She thinks a lot of this is in the office but she can't find the items. The list is:

- 1) Name and passwords for the company used to send out the Village notices to all residents via email blasts.
Any separate list of email addresses of residents - where is the hard copy in the office at village hall?
- 2) Facebook information including login and passwords used to manage the village FB page.
- 3) Provide a list of all the NY State Government agencies that require electronic mandatory reports, the login information and passwords for same.
- 4) Passwords required to access all transaction records, reports, and other documents (including any spreadsheets) in QuickBooks.
- 5) Tax preparation vendor name, online tax payment instructions and passwords.
- 6) Offsite backup information – vendor name, access information
- 7) List of all former elected officials who still have laptop computers or any other equipment belonging to the village.

- 8) Log in information and password for Village access to the office of the Rockland County Clerk (for new deeds and owner transfer information).

Please let me know when she would be available to go over to village hall. Thanks again.

Janine A. Getler, Esq.
Mobile: 201 310 2961

From: Brian K. Condon <brian@ccmlawoffices.com>
Sent: Thursday, May 2, 2019 11:29 AM
To: Janine Getler <jgetler@ggpcclaw.com>
Subject: Re: Pomona

Got the email! Thanks.

Sent from my iPhone

On May 2, 2019, at 11:28 AM, Janine Getler <jgetler@ggpcclaw.com> wrote:

Thanks for the call back. Good luck with Verizon!

Janine A. Getler
Getler, Gonzalez & Condon, PC
2 Executive Boulevard Suite 402
Suffern, New York 10991
Office: 845 333 1111
Mobile: 201 310 2961
jgetler@ggpcclaw.com

Exhibit “B”

1) Name and passwords for the company used to send out the Village notices to all residents via email blasts. Any separate list of email addresses of residents - where is the hard copy in the office at village hall?

I am not aware of a hard copy of the emails being retained. When residents provide their emails to be added, they are added directly in SendPulse. Although I have already provided this information to Ms. Thorsen, the logo of the company, SendPulse, is at the bottom of every email blast which Mr. Banks (and other Board members and residents on the email list) receive. It provides an option for anyone to opt out and if you follow the link at the bottom of any email blast it brings you to the SendPulse home page and a screen appears that says the Village of Pomona uses SendPulse for their email marketing needs.

My login to SendPulse is attached to the email address I used when I was Village Clerk/Treasurer and contains my full name. I would suggest that Ms. Thorsen contact SendPulse to find out what needs to be done for her to have the list transferred to her email address. No one is allowed to send out an email which is attached to an email with any of my personal information in it. If Ms. Thorsen cannot manage this, I suggest they contact an IT person.

I would like the assurance of the Plaintiff that any email containing my name will not be used by Lisa Thorsen or any other person, to transmit any communication within the Village or outside the Village.

2) Facebook information including login and passwords used to manage the village FB page.

I do not use Facebook and do not maintain the account for the Village. They would have to inquire with the previous Mayor.

3) Provide a list of all the NY State Government agencies that require electronic mandatory reports, the login information and passwords for same.

This is not an area where the Village should have needed assistance. All of this information is available on the website for the NYS Office of the State Comptroller.

NYS Office of the State Comptroller can provide the Village with all this information and the necessary webinars and information for completing all these reports (see links provided below). I have provided some links below:

Website for the NYS Office of the State Comptroller
www.osc.state.ny.us

Tax Cap Reporting

<https://www.osc.state.ny.us/localgov/realprop/index.htm>

<https://www.osc.state.ny.us/localgov/realprop/pdf/complianceinstructions.pdf>

Constitutional Tax Limit <https://www.osc.state.ny.us/localgov/finreporting/ctl.htm>

Annual Update Document (AUD) – Accountant completes this and the Financial statements after performing an audit of the Village financial records.

<https://www.osc.state.ny.us/localgov/finreporting/lgef/index.htm>

Monthly Retirement Reporting

<https://www.osc.state.ny.us/retire/employers/index.php>

https://www.osc.state.ny.us/retire/retirement_online/employers.php

Certification guidelines: https://www.osc.state.ny.us/retire/retirement_online/get-certified-state.php

Preparation Guidelines

https://www.osc.state.ny.us/retire/retirement_online/employers.php#get-prepared

I explained to my successor on April 1, 2019, that the NYSLRS has been in the process over the past two years of upgrading their computer systems and electronic filing and reporting system which was going live in April, 2019. The links for the required training, Bronze and Silver are above. Whomever is going to be doing this reporting needs to complete the training. User IDs and passwords are connected to the person who completes the training **AND are the property of the NYSLRS.** My login and password are strictly prohibited from use by anyone but me. The Village needs to decide who will be doing the reporting and have them contact NYSLRS and complete the required training. There is no way around this and I cannot be of anymore assistance in this area.

May 6, 2019 - Due to the confidential nature of this information, I spoke to Terry White from Retirement Reporting today and I also left a message for Karen Jazvinski. They are aware of the situation and will be disabling my login information for both the old system (RIR) and the new system (EROL). The Village needs to contact Karen Jazvinski and arrange for training to attain its own access.
Contact: Karen Jazvinski 518-474-8666

4) Passwords required to access all transaction records, reports, and other documents (including any spreadsheets) in QuickBooks.

I provided it previously but here it is again:

Username is: Admin

Password is: Pomon@100

Please note:

Subsequent to my being terminated by Mayor Banks on April 2nd, six days before my official appointment was ending, April 8, 2019, Ms. Thorsen called me on the morning of either April 3rd or 4th, approximately at 8:15 AM. She left a message and I called her back. I gave her the login information for QBs, and stayed on the phone with her while she logged into QBs. I do not know why the Village is claiming it does not have this information. When IT technician, Mr. Louis Montgomery, was in the office in the first week of April he observed Ms. Thorsen utilizing the QB program, and she informed him that I had provided the login information. As I had previously informed Ms.

Thorsen, the General Fund, the Tax Money Market, and the Trust and Agency Fund (including approximately 40 sub-escrow accounts) are accessed with the same password. It is my understanding that they have employed a Treasurer who has the necessary background to use the program. Having been terminated on April 2nd and asked to leave Village Hall, I have no further responsibility nor desire to assist any further.

Spreadsheets are generated as needed through the QBs program. Their treasurer should be able to do this. No additional passwords are required.

5) Tax preparation vendor name, online tax payment instructions and passwords.

BAS (Business Automation Services)
Director of Customer Relations – Michele Lysack – 518-371-6869
mlysack@basgov.com

The Village has been given this information multiple times by myself, the Deputy Clerk, Betty Vanderbeek, and IT technician, Louis Montgomery. I stress again, that they need to simply call BAS to attain access, used ids, passwords, and schedule the necessary training. The Village pays for support, I believe it is \$3,000/yr. and since there are new people in the office they would have to request in-office training on utilizing the system. There may be some free-training left under our original contract, however, I do not recall or have that information available. They can easily find out with a phone call.

Again, the Village was told multiple times that the new software for both the tax and the building systems was through BAS (Business Automation Software). Specifically, Ms. Thorsen was told that ITAX and IPS were user specific and she needed to contact BAS to setup the unique logins for anyone in the office who would be users in the program and remove myself and Betty Vanderbeek. Ms. Thorsen was given the contact information for BAS, which is also available on any invoice or the contract which is in the file cabinet. I have also provided the contact information again for Michele Lysack.

I am confident that Mr. Montgomery also provided the same information to Ms. Thorsen multiple times. In the same conversation she asked me about SCA (Software Consulting Associates) which used to manage our building and tax systems. I told her we no longer used SCA for either tax collection or building records; in addition there is no longer a property assessment system. She asked me about Mike Thrapp who was instrumental part of SCA and the main contact person for any tax system matters. I told her since he had left the company in 2015 we had serious support issues and contracted with BAS.

The other icon on the desktop, Egov, is the online payment system where you access online payments and post payments, although it does update every 24 hours automatically. BAS can assist them with this as well

It should be noted that this program was put in place in 2017 for the 2018-2019 tax year. There were live demos at Board workshop meetings at which Mayor Banks was present. As Trustee, he had all this information. The online tax system is accessed through the Village website, www.pomonavillage.com

There will be an orange link for tax payments. As a Board Trustee at the time this was done, Mr. Banks has all the documentation and contact information in the meeting packets, including a full brochure for the company. The contract for the online payment system was a vendor that BAS works with. It is my recollection that they only signed a one year contract with the company, because Doris Ulman, Esq., had some questions concerning the contract and in order to facilitate the processing of the 2018-2019 agreed to a one year contract. BAS should be contacted to connect to the company which processes the electronic payments. There is remote training in the use of the POS machine which would be provided by the company. Again BAS would be able to assist them with the information for this company as they are affiliated.

ITax, IPS, and Egov are controlled solely by BAS. The Village simply needs to make a phone call.

6) Offsite backup information – vendor name, access information

I was not the IT person and was never responsible for backing up the system. From what I understand the system has not been backed up off offsite and is backed up on the server, therefore there is no **offsite backup information**. The Village should contact Louis Montgomery from Fresh Ideas for clarification on this matter.

In the event there is any accusation that the server was damaged, please refer to Mayor Banks as he is the person who authorized disarming of the security system, allowing unauthorized individual(s) to hack into the new server. This can be attested to by Louis Montgomery who witnessed the event.

I do not want any accusation to arise that implicates myself or the Deputy Clerk, Betty Vanderbeek, for damage to the system, removal or destruction of records, hacking the locks off file cabinets, and damage to the black security cabinet which hold records for Vital Statistics; this was all done subsequent to our dismissal on April 2nd and authorized under the supervision of Mayor Banks.

7) List of all former elected officials who still have laptop computers or any other equipment belonging to the village.

Again, Ms. Thorsen has asked this same question several times to various people. As I had previously informed her, the only laptop I am aware of was used by the former Mayor. I told her that Mayor Banks should contact former Mayor, Brett Yagel, directly as I have no authority and do not have the laptop in my possession.

The Village was also advised that there was a cell phone assigned to a previous code officer, Katherine Tolf. She worked for the Village for three months, turned in the phone and it was in the gray filing cabinet in the office. I believe there was one tablet for the Building Inspector. He never used it and it is in the office. It should be noted that this tablet predates my position in the office and was in place during Ms. Thorsen's tenure prior to September 2014. The Village should call Verizon and confirm the equipment.

8) Log in information and password for Village access to the office of the Rockland County Clerk (for new deeds and owner transfer information).

Anyone can access the Rockland County Clerk website and view land records and set up an account. My login was under my name. When I login my name appears in the upper right corner. If my name is in any way affiliated with the Village, Ms. Thorsen would have to contact the Rockland County Clerk's Office to see what needs to be done. I rarely access land records and only on the occasion where I need to update the tax collection system. She should not be accessing Rockland County Land Records through my login.